

Appl. No.: 09/742,190  
Amdt. dated 01/06/2006  
Reply to Office action of 09/07/2005

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**REMARKS**

This amendment is submitted with a request for one month extension and appropriate fee in reply to the final Office Action dated September 7, 2005. Claims 1-14 currently stand rejected. Claims 3 and 4 have been canceled. Claim 1 has been amended to correct informalities. The specification has been amended to eliminate subject matter objected to in the final Office Action. Applicant submits that the amendment creates no new issues and that no new matter has been added by the amendment. Since no new matter has been added by the amendment and no new issues are created, Applicant requests that the amendment be entered.

In light of the amendments and the remarks presented below, Applicant respectfully requests reconsideration and allowance of all now-pending claims of the present application.

**Specification Objections**

The amendment filed June 3, 2005 stands objected to under 35 U.S.C. §132(a) because it allegedly introduced new matter into the disclosure. Applicant has amended the specification to delete the objectionable matter. Accordingly Applicant respectfully requests the objection be withdrawn.

**Claim Objections**

The Office Action objects to independent claim 1 for containing informalities. Applicant has amended independent claim 1 to correct the informalities. Accordingly Applicant respectfully requests the objection be withdrawn.

**Claim Rejections - 35 USC §112**

Claims 3 and 4 currently stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicant has canceled claims 3 and 4, without prejudice, thus the rejections of claims 3 and 4 are now moot.

**Claim Rejections - 35 USC §103**

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Claims 1-8, 10 and 12-14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Nielson (U.S. Patent No. 6,108,688) in view of Shanahan (U.S. Patent Application Publication No. 2004/0014459). Claims 9 and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Nielson and Shanahan and further in view of Jennings (U.S. Patent No. 5,781,186). Claims 3 and 4 have been canceled, without prejudice, thus the rejections of claims 3 and 4 are now moot.

Independent claim 1 recites, *inter alia*, a means for selecting at least one of time, date, and location conditions under which the message may be opened by a device of a recipient and that a message header holds the at least one of time, date, and location conditions. In other words, in an exemplary embodiment according to claim 1, a message sender may define conditions for a device of the recipient to open the message via conditions disposed in the header of the message. For example, conditions under which the message may be opened inherently enable opening the message when the conditions are met, and prevent opening the message when the conditions are not met. It is respectfully submitted that none of the cited references, taken either individually or in combination, teach or suggest the above-listed features.

Nielson is directed to a system for warning a sender of email messages if the messages are not received. Accordingly, the sender of a message can designate that a warning should be issued to the sender if the message is not opened by the recipient prior to a certain time and date. There is no teaching or suggestion in Nielson of selecting any conditions under which the message may be opened by a device of a recipient as claimed in independent claim 1. Rather, the date and time specified in the field (30) of Figure 2, specify a time at which the message sender desires to be notified if the message has not been opened by the recipient (col. 4, lines 21-25 and Figure 2). Additionally, the second field (12) of Figure 1 designates a date and time by which the message must have been opened by the recipient (col. 3, lines 49-51). It is clear from the context and disclosure of Nielson, that if the message is not opened by the recipient by the designated date and time, a warning may be sent to the sender (col. 3, lines 9-12 and 16-19). Thus, Nielson discloses, at best, conditions under which the sender is notified of an event and not conditions under which the message may be opened as claimed in the claimed invention. In fact, Nielson fails to teach or suggest any conditions that imply control over opening the message

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contents. Rather, Nielson merely discloses informing the sender under specified circumstances and such informing is the extent of functionality associated with the time and date values inserted in the field (30). Thus, Nielson fails to teach or suggest a means for selecting at least one of time, date, and location conditions under which the message may be opened by a device of a recipient as claimed in independent claim 1.

Shanahan is directed to an apparatus that allows a user to program user defined information into a programmable electronic device. Thus, the user may select an audio or video file, for example, from an internet site, and download the file to their electronic device. As described in paragraph [0045] of Shanahan, the user may program certain audio or video files into their device that are activated when a certain person calls or at a certain date or time. Accordingly, for example, the user may identify a certain signature file to be played in response to receiving a characteristic indicative of the caller. Additionally, in paragraph [0058] of Shanahan, audio or video files may be downloaded through the telephone and stored. The stored files may then be played when receiving an incoming call as described above.

Shanahan's disclosure does not amount to selecting conditions under which the message may be opened by a device of a recipient as claimed in the claimed invention. To the contrary, if anything, Shanahan's disclosure amounts to selecting conditions under which a stored file may be opened by a device. Thus, the files which are played in Shanahan do not constitute a message received by the user. Since the files that are played in Shanahan are not transmitted to a recipient in a message, Shanahan does not teach or suggest means for selecting conditions under which the message may be opened by the device of a recipient. In fact, there is no teaching or suggestion that the user might send the file to a recipient with conditions under which the recipient can open the file. Rather, the user plays the files from a memory of the user's device in response to user defined criteria. Accordingly, Shanahan fails to teach or suggest a means for selecting at least one of time, date, and location conditions under which the message may be opened by a device of a recipient as claimed in independent claim 1. Jennings is not cited as teaching such feature and similarly fails to teach or suggest a means for selecting at least one of time, date, and location conditions under which the message may be opened by a device of a recipient as claimed in independent claim 1.

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Additionally, it is submitted that none of the cited references teach that conditions under which the message may be opened are contained in the message header, as claimed in independent claim 1. Jennings indicates that the message component (204, 205) is inside the message (200) (Abstract and Figure 2). Shanahan does not involve messages, and therefore is silent as to the contents of a message header. Finally, Nielson discloses a message header, but fails to teach or suggest that the contents of the header include conditions under which the message may be opened. Accordingly, the cited references alone or in combination fail to teach or suggest that a message header holds the at least one of time, date and location conditions as claimed in independent claim 1.

Since Nielson, Shanahan and Jennings each fail to teach or suggest a means for selecting at least one of time, date, and location conditions under which the message may be opened by a device of a recipient and that a message header holds the at least one of time, date, and location conditions as claimed in independent claim 1, any combination of the cited references likewise fails to render independent claim 1 obvious for at least the same reasons described above. Claims 2 and 5-14 depend either directly or indirectly from independent claim 1, and thus include all the recitations of independent claim 1. Therefore, dependent claims 2 and 5-14 are patentable for at least those reasons given above for independent claim 1.

Accordingly, for all the reasons stated above, Applicant respectfully submits that the rejections of claims 1, 2 and 5-14 are overcome.

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**CONCLUSION**

In view of the amendment and remarks submitted above, it is respectfully submitted that the present claims are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present invention.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

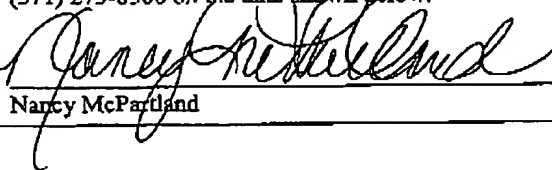


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1-6-06  
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